

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BRYAN EDWARD VELASQUEZ,

Petitioner,

v.

WILLIAM SANDIE, *et al.*,

Respondents.

Case No. 3:16-cv-00493-MMD-VPC

ORDER

In this habeas corpus action, brought *pro se* by Nevada prisoner Bryan Edward Velasquez under 28 U.S.C. § 2254, the Court screened the petition for writ of habeas corpus on August 31, 2016, pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, and summarily dismissed the action, as it is plainly a successive habeas petition, and Velasquez has not obtained from the Ninth Circuit Court of Appeals the permission required to file such a successive petition. See Order entered August 31, 2016 (ECF No. 3).

On September 15, 2016, Velasquez filed an application for a certificate of appealability (ECF No. 8). The Court denied Velasquez a certificate of appealability in the order entered August 31, 2016. (ECF No. 3.) Velasquez makes no showing warranting reconsideration of that ruling. It is beyond reasonable debate that this is a successive habeas petition, and Velasquez has not obtained from the court of appeals the necessary permission to file such a successive petition, as required under 28 U.S.C. § 2244(b)(3)(A) ("Before a second or successive application permitted by this section is

1 filed in the district court, the applicant shall move in the appropriate court of appeals for  
2 an order authorizing the district court to consider the application.”).

3 The Court will, however, order that Velasquez's *pro se* application for a certificate  
4 of appealability be treated as a notice of appeal, and that it be processed accordingly by  
5 the Clerk of the Court. *See Tinsley v. Borg*, 895 F.2d 520, 523 (9th Cir.1990) (treating  
6 timely *pro se* motion for a certificate of probable cause as a timely notice of appeal).

7 It is therefore ordered that petitioner's application for a certificate of appealability  
8 (ECF No. 8) is denied.

9 It is further ordered that the Clerk of the Court will treat petitioner's application for  
10 a certificate of appealability (ECF No. 8) as a notice of appeal, and process it  
11 accordingly.

12 DATED THIS 21<sup>st</sup> day of September 2016.

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15 MIRANDA M. DU  
16 UNITED STATES DISTRICT JUDGE  
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